

# PUBLIC NOTICE



**US Army Corps  
of Engineers  
Kansas City District**

**Permit No. 2011-1446  
Issue Date: February 10, 2012  
Expiration Date: March 11, 2012**

**30-Day Notice**

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This public notice announces the Land Learning Foundation's (Foundation) intention to sponsor an in-lieu fee (ILF) compensatory mitigation program within selected geographical service areas (Eight Ecological Drainage Units) in Missouri. If approved, the Foundation will collect monetary payment from recipients of Department of the Army (DA) permits and then assume the responsibility to complete the compensatory mitigation required by the DA permit in order to adequately replace the unavoidable loss of aquatic resources associated with the permitted activity. The Land Learning Foundation is a registered not-for-profit corporation in the State of Missouri.

According to the applicant, the compensatory mitigation objectives of the program will be achieved through the following:

- 1) Identifying and enhancing wetland and stream resources by evaluating the ecological deficiencies on a watershed basis.
- 2) Identifying and gaining approval of mitigation sites and plans prior to or concurrent with the mitigation need. This will lessen the temporal loss of wetland and stream functions in these watersheds.
- 3) Ecological success on a watershed basis will be obtained through the restoration, establishment, enhancement, and preservation of wetlands and streams across a large geographical area of Missouri.

**ADDITIONAL INFORMATION:** Additional information about this application may be obtained by viewing the complete ILF compensatory mitigation program prospectus on the Kansas City District's Regulatory website at:

<http://www.nwk.usace.army.mil/regulatory/CurrentPN/currentnotices.htm>

You may also contact Mr. Douglas Berka at 816-389-3657 (FAX 816-389-2032) or email at [douglas.r.berka@usace.army.mil](mailto:douglas.r.berka@usace.army.mil) or in writing to U.S. Army Corps of Engineers, Kansas City District, Attn: Douglas Berka, OD-R, Suite 402, 601 East 12<sup>th</sup> Street, Kansas City, Missouri 64106. Additional information on the Foundation can be found at [www.landlearning.org](http://www.landlearning.org). All comments to this public notice should be directed to Mr. Berka at the above mailing address or email. Please reference project number 2011-1446 in all correspondence regarding this project.

**APPLICANT:** Land Learning Foundation  
201 South Cherry Street  
P.O. Box 14  
Keytesville, Missouri 65261

**PROJECT LOCATION:** At this early stage of review, the applicant has not submitted nor proposed to submit a compensatory mitigation project at a particular location. If approved, as an ILF sponsor, the Foundation will submit wetland and stream restoration, establishment, enhancement, and preservation projects to the Corps of Engineers for review in consultation with the Interagency Review Team (IRT) as advance credits in each service area are sold. As outlined in the federal compensatory mitigation regulations, found at 33 CFR 332, the ILF sponsor has three years from the time of the first advance credit sale, in any approved service area, to submit a compensatory mitigation plan for the Corps' approval.

**AUTHORITY:** Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344). This bank, if approved, will provide compensatory mitigation for impacts to and for losses of waters of the United States authorized by DA permits under either or both authorities.

**WETLANDS/AQUATIC HABITAT:** The objective of this ILF program is to restore, establish, enhance and preserve wetland and stream habitats in order to improve the overall wildlife habitat and improve the water quality within each selected EDU service area. The Foundation proposes to use a watershed approach to reviewing the needs of the watershed and proposing the design of mitigation projects to meet those needs. This watershed approach is in compliance with the federal mitigation regulation, *Compensatory Mitigation for Losses of Aquatic Resources*; Final Rule, issued April 10, 2008. This regulation is found at 33 CFR 332.

**CULTURAL RESOURCES:** Kansas City District will comply with the National Historic Preservation Act of 1966 and 36 CFR 800 when reviewing all proposed compensatory mitigation projects when submitted by the ILF sponsor. We will check the National Register of Historic Places and the Federal Register to determine if a property listed in the Register or proposed for listing is located in the permit area. The National Register will likely be the extent of our knowledge about historic properties in the permit area at the time of submittal. However, we will evaluate input by the State Historic Preservation Officer, Tribal Historic Preservation Officers (or Tribe designated representative) and the public in response to future public notices, issued for each mitigation site when submitted, and we may conduct or require a reconnaissance survey of the permit area to check for unknown historic properties, if warranted.

**ENDANGERED SPECIES:** In compliance with the Endangered Species Act, a preliminary determination will be made for the described work and the project location concerning the affect on any species designated as threatened or endangered or adversely affect critical habitat. In order to complete our evaluation of the proposed mitigation activity, comments will be solicited from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

**FLOODPLAINS:** This activity is being reviewed in accordance with Executive Order 11988, Floodplain Management, which discourages direct or indirect support of floodplain development whenever there is a practicable alternative. By this public notice, comments are requested from individuals and agencies that believe the described work will adversely impact the floodplain.

**WATER QUALITY CERTIFICATION:** Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of dredged or fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. The discharge must be certified before a Department of the Army permit can be issued. Certification, if issued, expresses the state's opinion that the discharge will not violate applicable water quality standards. It is likely that each compensatory mitigation project carried out by an approved ILF program sponsor is authorized by Nationwide Permit (NWP) No. 27. The Missouri Department of Natural Resources issued water quality certification for NWP 27 and the certification is valid until March 17, 2012.

**PUBLIC INTEREST REVIEW:** The decision to issue a permit will be based on an evaluation of the probable impact including the cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, esthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency under authority of Section 404(b) of the Clean Water Act (33 USC 1344). The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**COMMENTS:** This notice is provided to outline details of the above-described activity so this District may consider all pertinent comments prior to determining if approving this proposed ILF sponsor would be in the public interest. Any interested party is invited to submit written facts or objections relative to this review on or before the public notice expiration date. Comments both favorable and unfavorable will be accepted and made a part of the record and will receive full consideration in determining whether it would be in the public interest to issue the Department of the Army approval. Copies of all comments, including names and addresses of commenters, may be provided to the applicant. Comments should be mailed to the address listed under the additional information section on page one of this public notice or email Mr. Douglas Berka, Project Manager. Please reference project number 2011-1446 in your comment letter.

**PUBLIC HEARING:** Any person may request, in writing, prior to the expiration date of this public notice, that a public hearing be held to consider this application. Such requests shall state, with particularity, the reasons for holding a public hearing.

**NOTE:** This public notice is posted on the Kansas City District Regulatory web page and can be viewed at the following address:

<http://www.nwk.usace.army.mil/regulatory/CurrentPN/currentnotices.htm>